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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,130	02/28/2002	Nikki M. Bruner	P1569US01	4401
7590	03/28/2005		EXAMINER	
Fellers, Snider, Blankenship, Bailey & Tippens, Bank One Tower 100 North Broadway, Suite 1700 Oklahoma City, OK 73102-8820			TORRES, JOSEPH D	
			ART UNIT	PAPER NUMBER
			2133	
DATE MAILED: 03/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/087,130

**Applicant(s)**

BRUNER ET AL.

**Examiner**

Joseph D. Torres

**Art Unit**

2133

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires 3 months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a)  They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b)  They raise the issue of new matter (see NOTE below);  
 (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-27.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
 13.  Other: \_\_\_\_\_.

Joseph D. Torres, PhD  
Primary Examiner  
Art Unit: 2133

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant contends, "The Applicant agrees to the extent that the cited passage states that the NRZ data input can be the reference data: "If the NRZ data input at 1402 is the first input data, and is to become the reference data, then the NRZ data is fed..." (Schachner col. 21, lines 38 39, emphasis added) However, this statement is irrelevant in relation to Applicant's argument that Schachner does not disclose comparing input and output sequences as claimed".

The Examiner would like to point out that claim 1 explicitly recites, "comparing the output sequence with the input sequence to determine a first number of erroneous symbols in the output sequence". Col. 6, lines 19-35 in Schachner explicitly teaches that the actual NRZ digital data streams received or output from the disk drive is compared to reference data streams stored in Reference Memory 1422 in Figure 14 of Schachner. Col. 21, lines 38-41 in Schachner explicitly teaches that the NRZ data input becomes the reference data stored in Reference Memory 1422 in Figure 14. The Authoritative Dictionary of IEEE Standards Terms define sequence as a set of bits, packets or messages ordered in time, hence the NRZ digital data streams received or output from the disk drive is an output sequence and reference data is an input sequence. Col. 6, lines 19-35 in Schachner explicitly teaches comparing the NRZ digital data stream output sequence from the disk drive with the reference data input sequence. Col. 5, lines 45-47 in Schachner explicitly teaches that each error is counted, hence Schachner explicitly teaches comparing the NRZ digital data stream output sequence from the disk drive with the reference data input sequence to determine a first number of erroneous symbols in the output sequence.